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[Report No. 96-200]

To provide for continuation of authority to regulate exports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 1979

Mr. BINGHAM (for himself, Mr. ZABLOCKI, Mr. FASCELL, Mr. DIGGS, Mr. ROSENTHAL, Mr. YATRON, Mrs. COLLINS of Illinois, Mr. SOLARZ, Mr. BONKER, Mr. PEASE, Mr. MICA, Mr. BARNES, Mr. WOLPE, Mr. BOWEN, Mr. FITHIAN, Mr. FINDLEY, Mr. BUCHANAN, Mr. WINN, Mr. GILMAN, Mr. LAGOMARSINO, and Mrs. FENWICK) introduced the following bill; which was referred to the Committee on Foreign Affairs

MAY 15, 1979

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To provide for continuation of authority to regulate exports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 TITLE I—EXPORT ADMINISTRATION

2 SHORT TITLE

3 SECTION 101. This title may be cited as the “Export
4 Administration Act Amendments of 1979”.

5 FINDINGS

6 SEC. 102. Section 2 of the Export Administration Act
7 of 1969 (50 U.S.C. App. 2401) is amended to read as
8 follows:

9 “FINDINGS

10 “SEC. 2. The Congress makes the following findings:

11 “(1) Exports are important to the economic well-
12 being of the United States.

13 “(2) A large United States trade deficit weakens
14 the value of the United States dollar, intensifies infla-
15 tionary pressures in the domestic economy, and height-
16 ens instability in the world economy.

17 “(3) Poor export performance is an important
18 factor contributing to a United States trade deficit.

19 “(4) It is important for the national interest of the
20 United States that both the private sector and the Fed-
21 eral Government place a high priority on exports,
22 which would strengthen the Nation’s economy.

23 “(5) The restriction of exports from the United
24 States can have serious adverse effects on the balance
25 of payments and on domestic employment, particularly

1 when restrictions applied by the United States are
2 more extensive than those imposed by other countries.

3 “(6) The uncertainty of policy toward certain
4 categories of exports has curtailed the efforts of Ameri-
5 can business in those categories to the detriment of the
6 overall attempt to improve the trade balance of the
7 United States.

8 “(7) The availability of certain materials at home
9 and abroad varies so that the quantity and composition
10 of United States exports and their distribution among
11 importing countries may affect the welfare of the do-
12 mestic economy and may have an important bearing
13 upon fulfillment of the foreign policy of the United
14 States.

15 “(8) Unreasonable restrictions on access to world
16 supplies can cause worldwide political and economic in-
17 stability, interfere with free international trade, and
18 retard the growth and development of nations.

19 “(9) The export of goods or technology without
20 regard to whether such export makes a significant con-
21 tribution to the military potential of individual coun-
22 tries may adversely affect the national security of the
23 United States.

24 “(10) It is important that the administration of
25 export controls imposed for national security purposes

POLICY

24 (b) Such section is further amended—

1 (1) in paragraph (5) by striking out "articles, ma-
2 terials, supplies, or information" and inserting in lieu
3 thereof "goods, technology, or other information";

4 (2) in paragraph (6) by striking out "articles, ma-
5 terials, or supplies, including technical data or other
6 information," and inserting in lieu thereof "goods,
7 technology, or other information"; and

8 (3) by adding at the end thereof the following new
9 paragraphs:

10 "(9) It is the policy of the United States to cooperate
11 with other nations with which the United States has defense
12 treaty commitments in restricting the export of goods and
13 technology which would make a significant contribution to
14 the military potential of any country or combination of coun-
15 tries, which would prove detrimental to the security of the
16 United States and of those countries with which the United
17 States has defense treaty commitments.

18 "(10) It is the policy of the United States that export
19 trade by United States citizens be given a high priority and
20 not be controlled except when such controls (A) are essential
21 to achieve fundamental national security, foreign policy, or
22 short supply objectives, (B) will clearly achieve such objec-
23 tives, and (C) are administered consistent with basic stand-
24 ards of due process. It is also the policy of the United States
25 that such controls shall not be retained unless their efficacy is

1 annually established in detailed reports available to both the
2 Congress and to the public, to the maximum extent consist-
3 ent with the national security and foreign policy of the
4 United States.”.

5 EXPORT LICENSES; TYPES OF CONTROLS

6 SEC. 104. (a) The Export Administration Act of 1969 is
7 amended—

8 (1) by redesignating section 4 as section 7;

9 (2) by repealing sections 5 and 9;

10 (3) by redesignating sections 6, 7, 8, 10, 11, 12,
11 13, 14, and 15 as sections 11, 12, 13, 14, 16, 17, 18,
12 19, and 20, respectively; and

13 (4) by redesignating sections 4A and 4B as sec-
14 tions 8 and 9, respectively.

15 (b) The Export Administration Act of 1969 is amended
16 by adding after section 3 the following new sections:

17 “EXPORT LICENSES; COMMODITY CONTROL LIST;

18 LIMITATION ON CONTROLLING EXPORTS

19 “SEC. 4. (a) TYPES OF LICENSES.—The Secretary
20 may, in accordance with the provisions of this Act, issue any
21 of the following export licenses:

22 “(1) A validated license, which shall be a docu-
23 ment issued pursuant to an application by an exporter
24 authorizing a specific export or, under procedures es-

1 tablished by the Secretary, a group of exports, to any
2 destination.

3 “(2) A qualified general license, which shall be a
4 document issued pursuant to an application by the ex-
5 porter authorizing the export to any destination, with-
6 out specific application by the exporter for each such
7 export, of a category of goods or technology, under
8 such conditions as may be imposed by the Secretary.

9 “(3) A general license, which shall be a standing
10 authorization to export, without application by the ex-
11 porter, a category of goods or technology, subject to
12 such conditions as may be set forth in the license.

13 “(4) Such other licenses, consistent with this sub-
14 section and this Act, as the Secretary considers neces-
15 sary for the effective and efficient implementation of
16 this Act.

17 “(b) COMMODITY CONTROL LIST.—The Secretary shall
18 establish and maintain a list (hereinafter in this Act referred
19 to as the ‘commodity control list’) consisting of any goods or
20 technology subject to export controls under this Act.

21 “(c) RIGHT OF EXPORT.—No authority or permission
22 to export may be required under this Act, or under any rules
23 or regulations issued under this Act, except to carry out the
24 policies set forth in section 3 of this Act.

1 "NATIONAL SECURITY CONTROLS

2 "SEC. 5. (a) AUTHORITY.—(1) In order to carry out the
3 policy set forth in section 3(2)(A) of this Act, the President
4 may, in accordance with the provisions of this section, pro-
5 hibit or curtail the export of any goods or technology subject
6 to the jurisdiction of the United States or exported by any
7 person subject to the jurisdiction of the United States. The
8 authority contained in this subsection shall be exercised by
9 the Secretary, in consultation with the Secretary of Defense,
10 and such other departments and agencies as the Secretary
11 considers appropriate, and shall be implemented by means of
12 export licenses described in section 4(a) of this Act.

13 "(2)(A) Whenever the Secretary makes any revision
14 with respect to any goods or technology, or with respect to
15 the countries or destinations, affected by export controls im-
16 posed under this subsection, the Secretary shall publish in the
17 Federal Register a notice of such revision and shall specify in
18 such notice that the revision relates to controls imposed
19 under the authority contained in this section.

20 "(B) Whenever the Secretary denies any export license
21 under this subsection, the Secretary shall specify in the
22 notice to the applicant of the denial of such license that the
23 license was denied under the authority contained in this
24 section.

1 “(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In
2 administering export controls under this section, United
3 States policy toward individual countries shall not be deter-
4 mined exclusively on the basis of a country's Communist or
5 non-Communist status, but shall take into account such fac-
6 tors as the country's present and potential relationship to the
7 United States, its present and potential relationship to coun-
8 tries friendly or hostile to the United States, its ability and
9 willingness to control retransfers of United States exports in
10 accordance with United States policy, and such other factors
11 as the President may consider appropriate. The President
12 shall periodically review United States policy toward individ-
13 ual countries to determine whether such policy is appropriate
14 in light of factors specified in the preceding sentence.

15 “(c) CONTROL LIST.—(1) The Secretary shall establish
16 and maintain, as part of the commodity control list, a list of
17 all goods and technology subject to export controls under this
18 section. Such goods and technology shall be clearly identified
19 as being subject to controls under this section.

20 “(2) The Secretary of Defense and other appropriate de-
21 partments and agencies shall identify goods and technology
22 for inclusion on the list referred to in paragraph (1). Those
23 items which the Secretary and the Secretary of Defense
24 concur shall be subject to export controls under this section
25 shall comprise such list. If the Secretary and the Secretary of

1 Defense are unable to concur on such items, the matter shall
2 be referred to the President for resolution.

3 “(3) The Secretary shall issue regulations providing for
4 continuous review of the list established pursuant to this sub-
5 section in order to carry out the policy set forth in section
6 3(2)(A) and the provisions of this section, and for the prompt
7 issuance of such revisions of the list as may be necessary.
8 Such regulations shall provide interested Government agen-
9 cies and other affected or potentially affected parties with an
10 opportunity, during such review, to submit written data,
11 views, or arguments with or without oral presentation. Such
12 regulations shall further provide that, as part of such review,
13 an assessment be made of the availability from sources out-
14 side the United States of goods and technology comparable to
15 those controlled for export from the United States under this
16 section.

17 “(d) **MILITARY CRITICAL TECHNOLOGIES.**—(1) The
18 Congress finds that the national interest requires that export
19 controls under this section be focused primarily on military
20 critical technologies, and that export controls under this sec-
21 tion be removed insofar as possible from goods the export of
22 which would not transfer military critical technologies to
23 countries to which exports are controlled under this section.

1 “(2) The Secretary of Defense shall develop a list of
2 military critical technologies. In developing such list, primary
3 emphasis shall be given to—

4 “(A) arrays of design and manufacturing know-
5 how;

6 “(B) keystone manufacturing, inspection, and test
7 equipment; and

8 “(C) goods accompanied by sophisticated oper-
9 ation, application, or maintenance know-how,
10 which are not possessed by countries to which exports are
11 controlled under this section and which, if exported, would
12 permit a major advance in a weapons system of any such
13 country.

14 “(3) The list referred to in paragraph (2) shall—

15 “(A) be sufficiently specific to guide the determi-
16 nations of any official exercising export licensing re-
17 sponsibilities under this Act; and

18 “(B) provide for the removal of export controls
19 under this section from goods the export of which
20 would not transfer military critical technology to coun-
21 tries to which exports are controlled under this section,
22 except for goods with intrinsic military utility.

23 “(4) The list of military critical technologies developed
24 by the Secretary of Defense pursuant to paragraph (2) shall

1 become a part of the commodity control list subject to the
2 provisions of subsection (c) of this section.

3 “(5) The Secretary of Defense shall report annually to
4 the Congress on actions taken to carry out this subsection.

5 “(e) EXPORT LICENSES.—(1) The Congress finds that
6 the effectiveness and efficiency of the process of making
7 export licensing determinations under this section is severely
8 hampered by the large volume of validated export license
9 applications required to be submitted under this Act. Ac-
10 cordingly, it is the intent of Congress in this subsection to
11 encourage the use of a qualified general license, in lieu of a
12 validated license, to the maximum extent practicable, consist-
13 ent with the national security of the United States.

14 “(2) To the maximum extent practicable, consistent
15 with the national security of the United States, the Secretary
16 shall require a validated license under this section for the
17 export of goods or technology only if—

18 “(A) the export of such goods or technology is re-
19 stricted pursuant to a multilateral agreement, formal or
20 informal, to which the United States is a party and,
21 under the terms of such multilateral agreement, such
22 export requires the specific approval of the parties to
23 such multilateral agreement;

1 “(B) with respect to such goods or technology,
2 other nations do not possess capabilities comparable to
3 those possessed by the United States; or

4 “(C) the United States is seeking the agreement
5 of other suppliers to apply comparable controls to such
6 goods or technology and, in the judgment of the Secre-
7 tary, United States export controls on such goods or
8 technology, by means of such license, are necessary
9 pending the conclusion of such agreement.

10 “(3) To the maximum extent practicable, consistent
11 with the national security of the United States, the Secretary
12 shall require a qualified general license, in lieu of a validated
13 license, under this section for the export of goods or technol-
14 ogy if the export of such goods or technology is restricted
15 pursuant to a multilateral agreement, formal or informal, to
16 which the United States is a party, but such export does not
17 require the specific approval of the parties to such multi-
18 lateral agreement.

19 “(f) FOREIGN AVAILABILITY.—(1) The Secretary, in
20 consultation with appropriate Government agencies and with
21 appropriate technical advisory committees established pursu-
22 ant to subsection (h) of this section, shall review, on a con-
23 tinuing basis, the availability, to countries to which exports
24 are controlled under this section, from sources outside the
25 United States, including countries which participate with the

1 United States in multilateral export controls, of any goods or
2 technology the export of which requires a validated license
3 under this section. In any case in which the Secretary deter-
4 mines, in accordance with procedures and criteria which the
5 Secretary shall by regulation establish, that any such goods
6 or technology are available in fact to such destinations from
7 such sources in sufficient quantity and of sufficient quality so
8 that the requirement of a validated license for the export of
9 such goods or technology is or would be ineffective in achiev-
10 ing the purpose set forth in subsection (a) of this section, the
11 Secretary may not, after the determination is made, require a
12 validated license for the export of such goods or technology
13 during the period of such foreign availability, unless the
14 President determines that the absence of export controls
15 under this section would prove detrimental to the national
16 security of the United States. In any case in which the Presi-
17 dent determines that export controls under this section must
18 be maintained notwithstanding foreign availability, the Secre-
19 tary shall publish that determination together with a concise
20 statement of its basis, and the estimated economic impact of
21 the decision.

22 “(2) The Secretary shall approve any application for a
23 validated license which is required under this section for the
24 export of any goods or technology to a particular country and
25 which meets all other requirements for such an application, if

1 the Secretary determines that such goods or technology will,
2 if the license is denied, be available in fact to such country
3 from sources outside the United States, including countries
4 which participate with the United States in multilateral
5 export controls, in sufficient quantity and of sufficient quality
6 so that denial of the license would be ineffective in achieving
7 the purpose set forth in subsection (a) of this section, subject
8 to the exception set forth in paragraph (1) of this subsection.
9 In any case in which the Secretary makes a determination of
10 foreign availability under this paragraph with respect to any
11 goods or technology, the Secretary shall determine whether a
12 determination under paragraph (1) with respect to such goods
13 or technology is warranted.

14 “(3) Whenever the Secretary of State, in consultation
15 with the Secretary, has reason to believe that the availability
16 of any goods or technology from sources outside the United
17 States can be prevented or eliminated by means of negotia-
18 tions with other countries, the Secretary of State shall under-
19 take such negotiations. The Secretary shall not make any
20 determination under this subsection with respect to such
21 goods or technology until the Secretary of State has had a
22 reasonable amount of time to conclude such negotiations.

23 “(4) In order to further effectuate the policies set forth
24 in this paragraph, the Secretary shall establish, within the
25 Office of Export Administration of the Department of Com-

1 merce, a capability to monitor and gather information with
2 respect to the foreign availability of any goods or technology
3 subject to export controls under this section. The Secretary
4 shall include a detailed statement with respect to actions
5 taken in compliance with the provisions of this paragraph in
6 each report to the Congress made pursuant to section 14 of
7 this Act.

8 “(g) INDEXING.—In order to ensure that requirements
9 for validated licenses and qualified general licenses are peri-
10 odically removed as goods or technology subject to such re-
11 quirements become obsolete with respect to the national se-
12 curity of the United States, regulations issued by the Secre-
13 tary may, where appropriate, provide for annual increases in
14 the performance levels of goods or technology subject to any
15 such licensing requirement. Any such goods or technology
16 which no longer meet the performance levels established by
17 the latest such increase shall be removed from the list estab-
18 lished pursuant to subsection (c) of this section unless, under
19 such exceptions and under such procedures as the Secretary
20 shall prescribe, any other Government agency objects to such
21 removal and the Secretary determines, on the basis of such
22 objection, that the goods or technology shall not be removed
23 from the list.

24 “(h) TECHNICAL ADVISORY COMMITTEES.—(1) Upon
25 written request by representatives of a substantial segment of

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1 any industry which produces any goods or technology subject
2 to export controls under subsection (a) or being considered for
3 such controls because of their significance to the national se-
4 curity of the United States, the Secretary shall appoint a
5 technical advisory committee for any such goods or technol-
6 ogy which the Secretary determines are difficult to evaluate
7 because of questions concerning technical matters, worldwide
8 availability, and actual utilization of production and technol-
9 ogy, or licensing procedures. Each such committee shall con-
10 sist of representatives of United States industry and Govern-
11 ment, including the Departments of Commerce, Defense, and
12 State and, in the discretion of the Secretary, other Govern-
13 ment departments and agencies. No person serving on any
14 such committee who is a representative of industry shall
15 serve on such committee for more than four consecutive
16 years.

Industry
Reps on

17 “(2) Technical advisory committees established under
18 paragraph (1) shall advise and assist the Secretary, the Sec-
19 retary of Defense, and any other department, agency, or offi-
20 cial of the Government of the United States to which the
21 President delegates authority under this Act, with respect to
22 actions designed to carry out the policy set forth in section
23 3(2)(A) of this Act. Such committees, where they have exper-
24 tise in such matters, shall be consulted with respect to ques-
25 tions involving (A) technical matters, (B) worldwide avail-

1 ability and actual utilization of production technology, (C)
2 licensing procedures which affect the level of export controls
3 applicable to any goods or technology, and (D) exports sub-
4 ject to multilateral controls in which the United States par-
5 ticipates, including proposed revisions of any such multilater-
6 al controls. Nothing in this subsection shall prevent the Sec-
7 retary or the Secretary of Defense from consulting, at any
8 time, with any person representing industry or the general
9 public, regardless of whether such person is a member of a
10 technical advisory committee. Members of the public shall be
11 given a reasonable opportunity, pursuant to regulations
12 prescribed by the Secretary, to present evidence to such
13 committees.

14 “(3) To facilitate the work of the technical advisory
15 committees, the Secretary, in conjunction with other depart-
16 ments and agencies participating in the administration of this
17 Act, shall disclose to each such committee adequate informa-
18 tion, consistent with national security, pertaining to the rea-
19 sons for the export controls which are in effect or contem-
20 plated for the goods or technology with respect to which that
21 committee furnishes advice.

22 “(4) Whenever a technical advisory committee certifies
23 to the Secretary that goods or technology with respect to
24 which such committee was appointed have become available
25 in fact, to countries to which exports are controlled under

Sec. Comm.
may declass.

1 this section, from sources outside the United States, includ-
2 ing countries which participate with the United States in
3 multilateral export controls, in sufficient quantity and of suffi-
4 cient quality so that requiring a validated license for the
5 export of such goods or technology would be ineffective in
6 achieving the purpose set forth in subsection (a), and provides
7 adequate documentation for such certification, in accordance
8 with the procedures established pursuant to subsection (f)(1)
9 of this section, the Secretary shall take steps to verify such
10 availability, and upon such verification shall remove the re-
11 quirement of a validated license for the export of the goods or
12 technology, unless the President determines that the absence
13 of export controls under this section would prove detrimental
14 to the national security of the United States. In any case in
15 which the President determines that export controls under
16 this section must be maintained notwithstanding foreign
17 availability, the Secretary shall publish that determination
18 together with a concise statement of its basis, and the esti-
19 mated economic impact of the decision.

20 “(i) MULTILATERAL EXPORT CONTROLS.—(1) The
21 President shall enter into negotiations with the governments
22 participating in the group known as the Coordinating Com-
23 mittee of the Consultative Group (hereinafter in this subsec-
24 tion referred to as the ‘Committee’) with a view toward
25 accomplishing the following objectives:

1 “(A) Agreement to publish the list of items con-
2 trolled for export by agreement of the Committee,
3 together with all notes, understandings, and other
4 aspects of such agreement, and all changes thereto.

5 “(B) Agreement to hold periodic meetings of such
6 governments with high-level representation from such
7 governments, for the purpose of discussing export con-
8 trol policy issues and issuing policy guidance to the
9 Committee.

10 “(C) Agreement to reduce the scope of the export
11 controls imposed by agreement of the Committee to a STAT
12 level acceptable to and enforceable by all governments
13 participating in the Committee.

14 “(D) Agreement on more effective procedures for
15 enforcing the export controls agreed to pursuant to
16 subparagraph (C).

17 “(2) The President shall include, in each annual report
18 required by section 14 of this Act, a detailed report on the
19 progress of the negotiations required by paragraph (1), until
20 such negotiations are concluded.

21 “(3) In any case in which goods or technology con-
22 trolled for export by agreement of the Committee are export-
23 ed from the United States to countries which participate in
24 the Committee, no condition shall be imposed by the United

1 States with respect to the further export of such goods or
2 technology from such countries.

3 “(j) COMMERCIAL AGREEMENTS WITH CERTAIN
4 COUNTRIES.—(1) Any United States person who, for com-
5 mercial purposes, enters into any agreement with any agency
6 of the government of a country to which exports are re-
7 stricted for national security purposes, which agreement cites
8 an intergovernmental agreement (to which the United States
9 and such country are parties) calling for the encouragement
10 of technical cooperation, and which agreement is intended to
11 result in the export from the United States to the other party
12 of unpublished technical data of United States origin, shall
13 report such agreement to the Secretary.

14 “(2) The provisions of paragraph (1) shall not apply to
15 colleges, universities, or other educational institutions.

} Equal
Protection?

16 “(k) NEGOTIATIONS WITH OTHER COUNTRIES.—The
17 Secretary of State, in consultation with the Secretary of De-
18 fense, the Secretary of Commerce, and the heads of other
19 appropriate departments and agencies, shall be responsible
20 for conducting negotiations with other countries regarding
21 their cooperation in restricting the export of goods and tech-
22 nology in order to carry out the policy set forth in section
23 3(9) of this Act, as authorized by subsection (a) of this sec-
24 tion, including negotiations with respect to which goods and
25 technology should be subject to multilaterally agreed export

1 restrictions and what conditions should apply for exceptions
2 from those restrictions.

3 "FOREIGN POLICY CONTROLS

4 "SEC. 6. (a) AUTHORITY.—(1) In order to effectuate
5 the policy set forth in paragraph (2)(B), (7), or (8) of section 3
6 of this Act, the President may prohibit or curtail the exporta-
7 tion of any goods, technology, or other information subject to
8 the jurisdiction of the United States or exported by any
9 person subject to the jurisdiction of the United States, to the
10 extent necessary to further significantly the foreign policy of
11 the United States or to fulfill its international responsibilities.
12 The authority granted by this subsection shall be exercised
13 by the Secretary, in consultation with the Secretary of State
14 and such other departments and agencies as the Secretary
15 considers appropriate, and shall be implemented by means of
16 export licenses issued by the Secretary.

17 "(2)(A) Whenever the Secretary makes any revision
18 with respect to any goods, technology, or other information,
19 or with respect to the countries or destinations affected by
20 export controls imposed under this subsection, the Secretary
21 shall publish in the Federal Register a notice of such revi-
22 sion, and shall specify in the notice that the revision relates
23 to controls imposed under the authority contained in this
24 subsection.

1 “(B) Whenever the Secretary denies any export license
2 under this subsection, the Secretary shall specify in the
3 notice to the applicant of the denial of such license that the
4 license was denied under the authority contained in this sub-
5 section, and the reasons for such denial, with reference to the
6 criteria set forth in subsection (b) of this section.

Foreign Policy denial requires publication of reasons

7 “(3) In accordance with the provisions of section 10 of
8 this Act, the Secretary of State shall have the right to review
9 any export license application under this section that the Sec-
10 retary requests to review, and to appeal to the President any
11 decision of the Secretary with respect to such license
12 application.

13 “(b) CRITERIA.—In determining whether to impose
14 export controls under this section, the President, acting
15 through the Secretary and the Secretary of State, shall
16 consider—

17 “(1) the likely effectiveness of the proposed con-
18 trols in achieving their purpose, including the availabil-
19 ity from other countries of any goods or technology
20 comparable to goods or technology proposed for export
21 controls under this section;

22 “(2) the compatibility of the proposed controls
23 with the foreign policy objectives of the United States,
24 including the effort to counter international terrorism,

1 and with overall United States policy toward the coun-
2 try which is the proposed target of the controls;

3 “(3) the likely effects of the proposed controls on
4 the export performance of the United States, on the
5 competitive position of the United States in the inter-
6 national economy, and on individual United States
7 companies and their employees and communities, in-
8 cluding the effects of the controls on existing contracts;
9 and

10 “(4) the ability of the United States Government
11 to enforce the proposed controls effectively.

12 “(c) CONSULTATION WITH INDUSTRY.—The Secre-
13 tary, before imposing export controls under this section, shall
14 consult with such affected United States industries as the
15 Secretary considers appropriate, with respect to the criteria
16 set forth in paragraphs (1) and (3) of subsection (b) and such
17 other matters as the Secretary considers appropriate.

18 “(d) ALTERNATIVE MEANS.—Before resorting to the
19 imposition of export controls under this section, the President
20 shall determine that reasonable efforts have been made to
21 achieve the purposes of the controls through negotiations or
22 other alternative means.

23 “(e) NOTIFICATION TO CONGRESS.—The President in
24 every possible instance shall consult with the Congress
25 before imposing any export control under this section. When-

1 ever the President imposes any export control with respect to
2 any country under this section, he shall immediately notify
3 the Congress of the imposition of such export control, and
4 shall submit with such notification a report specifying—

5 “(1) the reasons for the control, the purposes the
6 control is designed to achieve, and the conditions under
7 which the control will be removed;

8 “(2) those considerations of the criteria set forth
9 is subsection (b) which led him to determine that on
10 balance such export control would further the foreign
11 policy interests of the United States or fulfill its inter-
12 national responsibilities, including those criteria which
13 were determined to be inapplicable;

14 “(3) the nature and results of consultations with
15 industry undertaken pursuant to subsection (c); and

16 “(4) the nature and results of any alternative
17 means attempted under subsection (d), or the reasons
18 for imposing the control without attempting any such
19 alternative means.

20 To the extent necessary to further the effectiveness of such
21 export control, portions of such report may be submitted on a
22 classified basis, and shall be subject to the provisions of sec-
23 tion 12(c) of this Act. If the Congress, within sixty days after
24 the receipt of such notification, adopts a concurrent resolu-
25 tion disapproving such export control, then such export con-

1 trol shall cease to be effective upon the adoption of the reso-
2 lution. In the computation of such sixty-day period, there
3 shall be excluded the days on which either House of Con-
4 gress is not in session because of an adjournment of more
5 than three days to a day certain or because of an adjourn-
6 ment of the Congress sine die. The procedures set forth in
7 section 130 of the Atomic Energy Act of 1954 shall apply to
8 any concurrent resolution referred to in this subsection,
9 except that any such resolution shall be reported by the ap-
10 propriate committees of both Houses of Congress not later
11 than forty-five days after the receipt of the notification sub-
12 mitted pursuant to this subsection.

13 “(f) EXCLUSION FOR FOOD AND MEDICINE.—This sec-
14 tion does not authorize export controls on food, medicine, or
15 medical supplies. It is the intent of Congress that the Presi-
16 dent not impose export controls under this section on any
17 goods or technology if he determines that the principal effect
18 of the export of such goods or technology would be to help
19 meet basic human needs. This subsection shall not be con-
20 strued to prohibit the President from imposing restrictions on
21 the export of food, medicine, or medical supplies, under the
22 International Emergency Economic Powers Act.

23 “(g) TRADE EMBARGOES.—This section does not au-
24 thorize the imposition by the United States of a total trade
25 embargo on any country. This subsection shall not be con-

1 strued to prohibit the President from imposing a trade embar-
2 go under the the International Emergency Economic Powers
3 Act.

4 “(h) FOREIGN AVAILABILITY.—In applying export con-
5 trols under this section, the President shall take all feasible
6 steps to initiate and conclude negotiations with appropriate
7 foreign governments for the purpose of securing the coopera-
8 tion of such foreign governments in controlling the export to
9 countries and consignees to which the United States export
10 controls apply of any goods or technology comparable to
11 goods or technology controlled for export under this section.

12 “(i) INTERNATIONAL OBLIGATIONS.—The limitations
13 contained in subsections (b), (c), (d), (f), (g), and (h) shall not
14 apply in any case in which the President exercises the au-
15 thority contained in this section to impose export controls, or
16 to approve or deny export license applications, in order to
17 fulfill commitments of the United States pursuant to treaties
18 to which the United States is a party, or to comply with
19 decisions or other actions of international organizations of
20 which the United States is a member.

21 “(j) EXISTING CONTROLS.—The provisions of subsec-
22 tions (f) and (g) shall not apply to any export control on food
23 or medicine or to any trade embargo in effect on the effective
24 date of the Export Administration Act Amendments of 1979.

1 “(k) CONTROL LIST.—The Secretary shall establish
2 and maintain, as part of the commodity control list, a list of
3 any goods or technology subject to export controls under this
4 section, and the countries to which such controls apply. Such
5 goods or technology shall be clearly identified as subject to
6 controls under this section. Such list shall consist of goods
7 and technology identified by the Secretary of State, with the
8 concurrence of the Secretary. If the Secretary and the Secre-
9 tary of State are unable to agree on the list, the matter shall
10 be referred to the President for resolution. The Secretary
11 shall issue regulations providing for periodic revision of such
12 list for the purpose of eliminating export controls which are
13 no longer necessary to fulfill the purpose set forth in subsec-
14 tion (a) of this section or are no longer advisable under the
15 criteria set forth in subsection (b) of this section.”.

16 (c) The Export Administration Act of 1969 is amended
17 by inserting after section 9, as redesignated by subsection (a)
18 of this section, the following new section:

19 “PROCEDURES FOR PROCESSING VALIDATED AND
20 QUALIFIED GENERAL LICENSE APPLICATIONS

21 “SEC. 10. (a) GENERAL RESPONSIBILITY OF THE SEC-
22 RETARY; DESIGNATED OFFICIAL.—(1) All export license
23 applications required under this Act shall be submitted by the
24 applicant to the Secretary. All determinations with respect to
25 any such application shall be made by the Secretary, subject

1 to the procedures provided in this section for objections by
2 other agencies. The Secretary may not delegate the authority
3 to deny any such application to any official holding a rank
4 lower than Deputy Assistant Secretary.

5 “(2) For purposes of this section, the term ‘designated
6 official’ means an official designated by the Secretary to
7 carry out functions under this Act with respect to the admin-
8 istration of export licenses.

9 “(b) APPLICATIONS TO BE REVIEWED BY OTHER
10 AGENCIES.—(1) It is the intent of Congress that a determi-
11 nation with respect to any export license application be made
12 to the maximum extent possible by the Secretary without
13 referral of such application to any other Government agency.

14 “(2) The head of any Government agency concerned
15 with export controls may, within ninety days after the effec-
16 tive date of this section, and periodically thereafter, in con-
17 sultation with the Secretary, determine the specific types and
18 categories of license applications to be reviewed by such
19 agency before the Secretary approves or disapproves any
20 such application. The Secretary shall, in accordance with the
21 provisions of this section, submit to the agency involved any
22 license application of any such type or category.

23 “(c) INITIAL SCREENING.—Within ten days after the
24 date on which any export license application is received, the
25 designated official shall—

1 “(1) send to the applicant an acknowledgment of
2 the receipt of the application and the date of the
3 receipt;

4 “(2) submit to the applicant a written description
5 of the procedures required by this section, the responsi-
6 bilities of the Secretary and of other agencies with re-
7 spect to the application, and the rights of the applicant;

8 “(3) return the application without action if the
9 application is improperly completed or if additional in-
10 formation is required, with sufficient information to
11 permit the application to be properly resubmitted, in
12 which case if such application is resubmitted, it shall
13 be treated as a new application for the purpose of cal-
14 culating the time periods prescribed in this section; and

15 “(4) determine whether it is necessary to submit
16 the application to any other agency and, if such sub-
17 mission is determined to be necessary, inform the ap-
18 plicant of the agency or agencies to which the applica-
19 tion will be referred.

20 “(d) ACTION BY THE DESIGNATED OFFICIAL.—Within
21 thirty days after the date on which an export license applica-
22 tion is received, the designated official shall—

23 “(1) approve or disapprove the application and
24 formally issue or deny the license, as the case may be;
25 or

1 “(2)(A) submit the application, together with all
2 necessary analysis and recommendations of the Depart-
3 ment of Commerce, concurrently to any other agencies
4 pursuant to subsection (b)(2); and

5 “(B) if the applicant so requests, provide the ap-
6 plicant with an opportunity to review for accuracy any
7 documentation submitted to such other agency with re-
8 spect to such application.

9 “(e) ACTION BY OTHER AGENCIES.—(1) Any agency
10 to which an application is submitted pursuant to subsection
11 (d)(2)(A) shall submit to the designated official, within thirty
12 days after the end of the thirty-day period referred to in sub-
13 section (d), any recommendations with respect to such appli-
14 cation. Except as provided in paragraph (2), any such agency
15 which does not so submit its recommendations within the
16 time period prescribed in the preceding sentence shall be
17 deemed by the designated official to have no objection to the
18 approval of such application.

19 “(2) If the head or acting head of any such agency noti-
20 fies the Secretary before the expiration of the time period
21 provided in paragraph (1) for submission of its recommenda-
22 tions that more time is required for review of the application
23 by such agency, the agency shall have an additional thirty-
24 day period to submit its recommendations to the designated
25 official. If such agency does not so submit its recommenda-

1 tions within the time period prescribed by the preceding sen-
2 tence, it shall be deemed by the designated official to have no
3 objection to the approval of the application.

4 “(f) DETERMINATION BY THE DESIGNATED OFFI-
5 CIAL.—(1) The designated official shall take into account any
6 recommendation of an agency submitted with respect to an
7 application to the designated official pursuant to subsection
8 (e), and, within twenty days after the end of the appropriate
9 period specified in subsection (e) for submission of such
10 agency recommendations, shall—

11 “(A) approve or disapprove the application and
12 inform such agency of such approval or disapproval; or

13 “(B) if unable to reach a decision with respect to
14 the application, refer the application to the Secretary
15 and notify such agency and the applicant of such
16 referral.

17 “(2) The designated official shall formally issue or deny
18 the license, as the case may be, not more than ten days after
19 such official makes a determination under paragraph (1)(A),
20 unless any agency which submitted a recommendation to the
21 designated official pursuant to subsection (e) with respect to
22 the license application, notifies such official, within such ten-
23 day period, that it objects to the determination of the desig-
24 nated official.

1 “(3) The designated official shall fully inform the appli-
2 cant, to the maximum extent consistent with the national
3 security and foreign policy of the United States—

4 “(A) within five days after a denial of the applica-
5 tion, of the statutory basis for the denial, the policies
6 in section 3 of this Act that formed the basis of the
7 denial, the specific circumstances that led to the denial,
8 and the applicant’s right to appeal the denial to the
9 Secretary under subsection (k) of this section; or

10 “(B) in the case of a referral to the Secretary
11 under paragraph (1)(B) or an objection by an agency
12 under paragraph (2), of the specific questions raised
13 and any negative considerations or recommendations
14 made by an agency, and shall accord the applicant an
15 opportunity, before the final determination with respect
16 to the application is made, to respond in writing to
17 such questions, considerations, or recommendations.

18 “(g) ACTION BY THE SECRETARY.—(1)(A) In the case
19 of an objection of an agency of which the designated official
20 is notified under subsection (f)(2), the designated official shall
21 refer the application to the Secretary. The Secretary shall
22 consult with the head of such agency, and, within twenty
23 days after such notification, shall approve or disapprove the
24 license application and immediately inform such agency head
25 of such approval or disapproval.

1 “(B) In the case of a referral to the Secretary under
2 subsection (f)(1)(B), the Secretary shall, within twenty days
3 after notification of the referral is transmitted pursuant to
4 such subsection, approve or disapprove the application and
5 immediately inform any agency which submitted recommen-
6 dations with respect to the application, of such approval or
7 disapproval.

8 “(2) The Secretary shall formally issue or deny the li-
9 cense, as the case may be, within ten days after approving or
10 disapproving an application under paragraph (1), unless the
11 head of the agency referred to in paragraph (1)(A), or the
12 head of an agency described in paragraph (1)(B), as the case
13 may be, notifies the Secretary of his or her objection to the
14 approval or disapproval.

15 “(3) The Secretary shall immediately and fully inform
16 the applicant, in accordance with subsection (f)(3), of any
17 action taken under paragraph (1) or (2) of this subsection.

18 “(4) The Secretary may not delegate the authority to
19 carry out the actions required by this subsection to any offi-
20 cial holding a rank lower than Deputy Assistant Secretary.

21 “(h) ACTION BY THE PRESIDENT.—In the case of noti-
22 fication by an agency head, under subsection (g)(2), of an
23 objection to the Secretary's decision with respect to an appli-
24 cation, the Secretary shall immediately refer the application
25 to the President. Within thirty days after such notification,

1 the President shall approve or disapprove the application and
2 the Secretary shall immediately issue or deny the license, in
3 accordance with the President's decision. In any case in
4 which the President does not approve or disapprove the ap-
5 plication within such thirty-day period, the decision of the
6 Secretary shall be final and the Secretary shall immediately
7 issue or deny the license in accordance with the Secretary's
8 decision.

9 “(i) SPECIAL PROCEDURES FOR SECRETARY OF DE-
10 FENSE.—(1) Notwithstanding any other provision of this sec-
11 tion, the Secretary of Defense is authorized to review any
12 proposed export of any goods or technology to any country to
13 which exports are controlled for national security purposes
14 and, whenever he determines that the export of such goods
15 or technology will make a significant contribution, which
16 would prove detrimental to the national security of the
17 United States, to the military potential of any such country,
18 to recommend to the President that such export be
19 disapproved.

20 “(2) Notwithstanding any other provision of law, the
21 Secretary of Defense shall determine, in consultation with
22 the export control office to which licensing requests are
23 made, the types and categories of transactions which should
24 be reviewed by him in order to make a determination referred
25 to in paragraph (1). Whenever a license or other authority is

1 requested for the export to any country to which exports are
2 controlled for national security purposes of goods or technol-
3 ogy within any such type or category, the appropriate export
4 control office or agency to which such request is made shall
5 notify the Secretary of Defense of such request, and such
6 office may not issue any license or other authority pursuant
7 to the request before the expiration of the period within
8 which the President may disapprove such export. The Secre-
9 tary of Defense shall carefully consider all notifications sub-
10 mitted to him pursuant to this paragraph and, not later than
11 thirty days after notification of the request, shall—

12 “(A) recommend to the President that he disap-
13 prove any request for the export of any goods or tech-
14 nology to any such country if he determines that the
15 export of such goods or technology will make a signifi-
16 cant contribution, which would prove detrimental to
17 the national security of the United States, to the mili-
18 tary potential of such country or any other country;

19 “(B) notify such office or agency that he will in-
20 terpose no objection if appropriate conditions designed
21 to achieve the purposes of this Act are imposed; or

22 “(C) indicate that he does not intend to interpose
23 an objection to the export of such goods or technology.

24 If the President notifies such office or agency, within thirty
25 days after receiving a recommendation from the Secretary of

1 Defense, that he disapproves such export, no license or other
2 authority may be issued for the export of such goods or tech-
3 nology to such country.

4 “(3) The Secretary shall approve or disapprove a license
5 application, and issue or deny a license, in accordance with
6 the provisions of this subsection, and, to the extent applica-
7 ble, in accordance with the time periods and procedures
8 otherwise set forth in this section.

9 “(j) MULTILATERAL REVIEW.—(1) In any case in
10 which an application, which has been finally approved under
11 subsection (d), (f), (g), (h), or (i) of this section, is required to
12 be submitted to a multilateral review process, pursuant to a
13 multilateral agreement, formal or informal, to which the
14 United States is a party, the license shall not be issued as
15 prescribed in such subsections; but the Secretary shall notify
16 the applicant of the approval (and the date of such approval)
17 of the application by the United States Government, subject
18 to such multilateral review. The license shall be issued upon
19 approval of the application under such multilateral review. If
20 such multilateral review has not resulted in a determination
21 with respect to the application within sixty days after such
22 date, the Secretary's approval of the application shall be final
23 and the license shall be issued. The Secretary shall institute
24 such procedures for preparation of necessary documentation
25 before final approval of the application by the United States

1 Government as the Secretary considers necessary to imple-
2 ment the provisions of this paragraph.

3 “(2) In any case in which the approval of the United
4 States Government is sought by a foreign government for the
5 export of goods or technology pursuant to a multilateral
6 agreement, formal or informal, to which the United States is
7 a party, the Secretary of State, after consulting with other
8 appropriate United States Government agencies, shall,
9 within sixty days after the date on which the request for such
10 approval is made, make a determination with respect to the
11 request for approval. Any such other agency which does not
12 submit a recommendation to the Secretary of State before the
13 end of such sixty-day period shall be deemed by the Secre-
14 tary of State to have no objection to the request for United
15 States Government approval. The Secretary of State may
16 not delegate the authority to disapprove a request for United
17 States Government approval under this paragraph to any of-
18 ficial of the Department of State holding a rank lower than
19 Deputy Assistant Secretary.

20 “(k) EXTENSIONS.—If the Secretary determines that a
21 particular application or set of applications is of exceptional
22 importance and complexity, and that additional time is re-
23 quired for negotiations to modify the application or applica-
24 tions, the Secretary may extend any time period prescribed in

1 this section. The Secretary shall notify the Congress and the
2 applicant of such extension and the reasons therefor.

3 “(l) APPEAL AND COURT ACTION.—(1) The Secretary
4 shall establish appropriate procedures for any applicant to
5 appeal to the Secretary the denial of an export license appli-
6 cation of the applicant.

7 “(2) In any case in which any action prescribed in this
8 section is not taken on a license application within the time
9 periods established by this section (except in the case of a
10 time period extended under subsection (k) of which the appli-
11 cant is notified), the applicant may file a petition with the
12 Secretary requesting compliance with the requirements of
13 this section. When such petition is filed, the Secretary shall
14 take immediate steps to correct the situation giving rise to
15 the petition and shall immediately notify the applicant of such
16 steps.

17 “(3) If, within thirty days after petition is filed under
18 paragraph (2), the processing of the application has not been
19 brought into conformity with the requirements of this section,
20 or, if the application has been brought into conformity with
21 such requirements, the Secretary has not so notified the ap-
22 plicant, the applicant may bring an action in an appropriate
23 United States district court for a restraining order, a tempo-
24 rary or permanent injunction, or other appropriate relief, to
25 require compliance with the requirements of this section. The

1 United States district courts shall have jurisdiction to provide
2 such relief as appropriate.

3 “(m) RECORDS.—The Secretary and any agency to
4 which any application is referred under this section shall keep
5 accurate records with respect to all applications considered
6 by the Secretary or by any such agency.”.

7 SHORT SUPPLY LICENSE ALLOCATION

8 SEC. 105. Section 7 of the Export Administration Act
9 of 1969, as redesignated by section 104(a) of this Act, is
10 amended in subsection (b) by adding the following at the end
11 of paragraph (1): “Such factors shall include the extent to
12 which a country engages in equitable trade practices with
13 respect to United States goods and treats the United States
14 equitably in times of short supply.”.

15 MONITORING OF EXPORTS

16 SEC. 106. Section 7 of the Export Administration Act
17 of 1969, as redesignated by section 104(a) of this Act, is
18 amended by amending paragraph (1) of subsection (c) to read
19 as follows:

20 “(c)(1) To effectuate the policy set forth in section
21 3(2)(C) of this Act, the Secretary shall monitor exports, and
22 contracts for exports, of any good (other than a commodity
23 which is subject to the reporting requirements of section 812
24 of the Agricultural Act of 1970) when the volume of such
25 exports in relation to domestic supply contributes, or may

1 contribute, to an increase in domestic prices or a domestic
2 shortage, and such price increase or shortage has, or may
3 have, a serious adverse impact on the economy or any sector
4 thereof. Any such monitoring shall commence at a time ade-
5 quate to assure that the monitoring will result in a data base
6 sufficient to enable policies to be developed, in accordance
7 with section 3(2)(C) of this Act, to mitigate a short supply
8 situation or serious inflationary price rise or, if export con-
9 trols are needed, to permit imposition of such controls in a
10 timely manner. Information which the Secretary requires to
11 be furnished in effecting such monitoring shall be confidential,
12 except as provided in paragraph (2) of this subsection.”.

13 DOMESTIC CRUDE OIL

14 SEC. 107. Subsection (l) of section 7 of the Export Ad-
15 ministration Act of 1969, as such section is redesignated by
16 section 104(a) of this Act, is amended—

17 (1) in paragraph (1)—

18 (A) by striking out clause (A) and inserting
19 in lieu thereof the following: “(A) is exported to
20 the territory of an adjacent foreign state to be re-
21 fined and consumed therein in exchange for the
22 same quantity of crude oil being exported from
23 that country to the United States, such exchange
24 achieving, through convenience or increased effi-
25 ciency of transportation, lower oil prices described

1 in paragraph (2)(A)(ii) of this subsection for con-
2 sumers in the United States, or", and

3 (B) by striking out "during the 2-year period
4 beginning on the date of enactment of this subsec-
5 tion"; and

6 (2) by striking out paragraph (2) and inserting in
7 lieu thereof the following:

8 "(2) Crude oil subject to the prohibition contained in
9 paragraph (1) may be exported only if—

10 "(A) the President makes and publishes express
11 findings that exports of such crude oil, including
12 exchanges—

13 "(i) will not diminish the total quantity or
14 quality of petroleum refined within, stored within,
15 or legally committed to be transported to and sold
16 within the United States;

17 "(ii) will, within three months following the
18 initiation of such exports or exchanges, result in
19 (I) acquisition costs to the refineries which pur-
20 chase the imported crude oil being lower than the
21 acquisition costs such refiners would have to pay
22 for the domestically produced oil which is ex-
23 ported, and (II) commensurately reduced whole-
24 sale and retail prices of products refined from
25 such imported crude oil;

1 amended by repealing subsection (m), as added by section
2 5(d) of the Act of October 10, 1978 (Public Law 95-435).

3 BARTER AGREEMENTS

4 SEC. 109. Section 7 of the Export Administration Act
5 of 1969, as redesignated by section 104 of this Act, is
6 amended by adding at the end thereof the following new sub-
7 section:

8 “(n)(1) The exportation pursuant to a barter agreement
9 of any goods which may lawfully be exported from the United
10 States, for any goods which may lawfully be imported into
11 the United States, may be exempted, in accordance with
12 paragraph (2) of this subsection, from any quantitative limita-
13 tion on exports (other than any reporting requirement) im-
14 posed to carry out the policy set forth in section (3)(2)(C) of
15 this Act, or imposed by the President under the International
16 Emergency Economic Powers Act (50 U.S.C. App. 1701 et
17 seq.) on account of a threat to the economy of the United
18 States.

19 “(2) The Secretary shall grant an exemption under
20 paragraph (1) if the Secretary finds, after consultation with
21 the head of any appropriate agency of the United States,
22 that—

23 “(A) for the period during which the barter agree-
24 ment is to be performed—

1 “(i) the average annual quantity of the goods
2 to be exported pursuant to the barter agreement
3 will not be required to satisfy the average amount
4 of such goods estimated to be required annually
5 by the domestic economy and will be surplus
6 thereto; and

7 “(ii) the average annual quantity of the
8 goods to be imported will be less than the average
9 amount of such goods estimated to be required
10 annually to supplement domestic production; and

11 “(B) the parties to such barter agreement have
12 demonstrated adequately that they intend, and have
13 the capacity, to perform such barter agreement.

14 “(3) For purposes of this subsection, the term ‘barter
15 agreement’ means any agreement which is made for the ex-
16 change, without monetary consideration, of any goods pro-
17 duced in the United States for any goods produced outside of
18 the United States.

19 “(4) This subsection shall apply only with respect to
20 barter agreements entered into after the effective date of the
21 Export Administration Act Amendments of 1979.”

22 UNPROCESSED RED CEDAR

23 SEC. 110. (a) The Secretary of Commerce shall require
24 a validated license, under section 7 of the Export Adminis-
25 tration Act of 1969, as redesignated by section 104(a) of this

1 Act, for the export of unprocessed western red cedar (Thuja
2 plicata) logs, harvested from State or Federal lands. The
3 Secretary shall impose quantitative restrictions upon the
4 export of unprocessed western red cedar logs during the
5 three-year period beginning on the effective date of this Act
6 as follows:

7 (1) Not more than thirty million board feet
8 scribner of such logs may be exported during the first
9 year of such three-year period.

10 (2) Not more than fifteen million board feet
11 scribner of such logs may be exported during the
12 second year of such period.

13 (3) Not more than five million board feet scribner
14 of such logs may be exported during the third year of
15 such period.

16 After the end of such three-year period, no unprocessed
17 western red cedar logs may be exported from the United
18 States.

19 (b) The Secretary of Commerce shall allocate export li-
20 censes to exporters pursuant to this section on the basis of a
21 prior history of exportation by such exporters and such other
22 factors as the Secretary considers necessary and appropriate
23 to minimize any hardship to the producers of western red
24 cedar and to further the foreign policy of the United States.

1 (c) Unprocessed western red cedar logs shall not be con-
2 sidered to be an agricultural commodity for purposes of sub-
3 section (f) of section 7 of the Export Administration Act of
4 1969, as such section is redesignated by section 104(a) of this
5 Act.

6 (d) As used in this subsection, the term "unprocessed
7 western red cedar" means red cedar timber which has not
8 been processed into—

- 9 (1) lumber without wane;
- 10 (2) chips, pulp, and pulp products;
- 11 (3) veneer and plywood;
- 12 (4) poles, posts, or pilings cut or treated with pre-
13 servative for use as such and not intended to be further
14 processed; or
- 15 (5) shakes and shingles.

16 CIVIL AIRCRAFT EQUIPMENT

17 SEC. 111. Notwithstanding any other provision of law,
18 any product (1) which is standard equipment, certified by the
19 Federal Aviation Administration, in civil aircraft and is an
20 integral part of such aircraft, and (2) which is to be exported
21 to a country other than a controlled country, shall be subject
22 to export controls exclusively under the Export Administra-
23 tion Act of 1969. Any such product shall not be subject to
24 controls under section 38(b)(2) of the Arms Export Control
25 Act. For purposes of this section, the term "controlled coun-

1 try" means any country described in section 620(f) of the
2 Foreign Assistance Act of 1961.

3 NONPROLIFERATION CONTROLS

4 SEC. 112. (a) Nothing in section 5 or 6 of the Export
5 Administration Act of 1969, as added by section 104(b) of
6 this Act, shall be construed to supersede the procedures pub-
7 lished by the President pursuant to section 309(c) of the Nu-
8 clear Non-Proliferation Act of 1978.

9 (b) With respect to any export license application which,
10 under the procedures published by the President pursuant to
11 section 309(c) of the Nuclear Non-Proliferation Act of 1978,
12 is referred to the Subgroup on Nuclear Export Coordination
13 or other interagency group, the provisions of section 10 of the
14 Export Administration Act of 1969, as added by section
15 104(c) of this Act, shall apply with respect to such license
16 application only to the extent that they are consistent with
17 such published procedures, except that if the processing of
18 any such application under such procedures is not completed
19 within one hundred and eighty days after the receipt of the
20 application by the Secretary of Commerce, the applicant
21 shall have the rights of appeal and court action provided in
22 subsection (k) of such section 10.

VIOLATIONS

1
2 SEC. 113. Section 11 of the Export Administration Act
3 of 1969, as redesignated by section 104(a) of this Act, is
4 amended as follows:

5 (1) Subsection (a) is amended to read as follows:

6 “(a) Except as provided in subsection (b) of this section,
7 whoever knowingly violates any provision of this Act or any
8 regulation, order, or license issued thereunder shall be fined
9 not more than five times the value of the exports involved or
10 \$50,000, whichever is greater, or imprisoned not more than
11 five years, or both.”.

12 (2) Subsection (b) is amended to read as follows:

13 “(b) Whoever willfully exports anything contrary to any
14 provision of this Act or any regulation, order, or license
15 issued thereunder, with knowledge that such exports will be
16 used for the benefit of any country to which exports are re-
17 stricted for national security or foreign policy purposes, shall
18 be fined not more than five times the value of the exports
19 involved or \$100,000, whichever is greater, or imprisoned
20 not more than ten years, or both.”.

21 (3) Subsection (c)(2)(A) is amended by striking out

22 “articles, materials, supplies, or technical data or other
23 information” and inserting in lieu thereof, “goods,
24 technology, or other information”.

SEC. 114. (a) Subsection (c) of section 12 of the Export Administration Act of 1969, as such section is redesignated by section 104(a) of this Act, is amended—

(2) by striking out the last two sentences and inserting in lieu thereof the following: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines

51

1 that the withholding thereof is contrary to the national
2 interest.”.

3 (b) The amendment made by subsection (a)(1) shall not
4 require the withholding of any type of information which, im-
5 mediately before the effective date of this Act, is not withheld
6 from disclosure under section 7(c) of the Export Administra-
7 tion Act of 1969.

8 REPORT TO CONGRESS

9 SEC. 115. Section 14 of the Export Administration Act
10 of 1969, as redesignated by section 104(a) of this Act, is
11 amended to read as follows:

12 “ANNUAL REPORT

13 “SEC. 14. Not later than December 31 of each year, the
14 Secretary shall submit to the Congress a report on the ad-
15 ministration of this Act during the preceding fiscal year. All
16 agencies shall cooperate fully with the Secretary in providing
17 information for such report. Such report shall include detailed
18 information with respect to—

19 “(1) the implementation of the policies set forth in
20 section 3;

21 “(2) general licensing activities under sections 5,
22 6, and 7;

23 “(3) actions taken in compliance with section
24 5(c)(3);

1 “(4) changes in categories of items under export
2 control referred to in section 5(e);

3 “(5) the operation of the indexing system under
4 section 5(g);

5 “(6) determinations of foreign availability made
6 under section 5(f), the criteria used to make such de-
7 terminations, the removal of any export controls under
8 such section, and any evidence demonstrating a need
9 to impose export controls for national security purposes
10 notwithstanding foreign availability;

11 “(7) consultations with the technical advisory
12 committees established pursuant to section 5(h), the
13 use made of the advice rendered by such committees,
14 and the contributions of such committees toward imple-
15 menting the policies set forth in this Act;

16 “(8) changes in policies toward individual coun-
17 tries under section 5(b);

18 “(9) actions taken to carry out section 5(d);

19 “(10) the effectiveness of export controls imposed
20 under section 6 in furthering the foreign policy of the
21 United States;

22 “(11) the implementation of section 8;

23 “(12) export controls and monitoring under sec-
24 tion 7;

1 “(13) organizational and procedural changes un-
2 dertaken to increase the efficiency of the export licens-
3 ing process and to fulfill the requirements of section
4 10, including an analysis of the time required to proc-
5 ess license applications and an accounting of appeals
6 received, court orders issued, and actions taken pursu-
7 ant thereto under subsection (l) of such section; and

8 “(14) violations under section 11 and enforcement
9 activities under section 12.”.

10 RULES AND REGULATIONS

11 SEC. 116. The Export Administration Act of 1969 is
12 amended by inserting after section 14, as redesignated by
13 section 104(a) of this Act, the following new section:

14 “REGULATORY AUTHORITY

15 “SEC. 15. The President and the Secretary may issue
16 such rules and regulations as are necessary to carry out the
17 provisions of this Act. Any such rules or regulations issued to
18 carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may
19 apply to the financing, transporting, or other servicing of ex-
20 ports and the participation therein by any person.”.

21 DEFINITION

22 SEC. 117. Section 16 of the Export Administration Act
23 of 1969, as redesignated by section 104(a) of this Act, is
24 amended—

1 (1) in paragraph (1) by striking out "and" after
2 the semicolon;

3 (2) in paragraph (2) by striking out the period at
4 the end thereof and inserting in lieu thereof "; and";
5 and

6 (3) by adding at the end thereof the following:

7 "(3) the term 'Secretary' means the Secretary of
8 Commerce."

9 EFFECT ON OTHER ACTS

10 SEC. 118. (a) Section 17 of the Export Administration
11 Act of 1969, as redesignated by section 104(a) of this Act, is
12 amended in subsection (b) by striking out "section 414 of the
13 Mutual Security Act of 1954 (22 U.S.C. 1934)" and insert-
14 ing in lieu thereof "section 38 of the Arms Export Control
15 Act (22 U.S.C. 2778)".

16 (b) Effective October 1, 1979, the Mutual Defense As-
17 sistance Control Act of 1951 (22 U.S.C. 1611-1613d) is
18 superseded.

19 AUTHORIZATION OF APPROPRIATIONS

20 SEC. 119. Section 18 of the Export Administration Act
21 of 1969, as redesignated by section 104(a) of this Act, is
22 amended to read as follows:

23 "AUTHORIZATION OF APPROPRIATIONS

24 "SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGIS-
25 LATION.—Notwithstanding any other provision of law, no

1 appropriation shall be made under any law to the Depart-
2 ment of Commerce for expenses to carry out the purposes of
3 this Act unless previously and specifically authorized by law.

4 “(b) AUTHORIZATION.—(1) There are authorized to be
5 appropriated to the Department of Commerce to carry out
6 the purposes of this Act \$7,070,000 for the fiscal year 1980
7 and \$7,777,000 for the fiscal year 1981 (and such additional
8 amounts as may be necessary for increases in salary, pay,
9 retirement, other employee benefits authorized by law, and
10 other nondiscretionary costs).

11 “(2) Of the funds appropriated to the Department of
12 State for the fiscal year 1980, the Secretary of State may use
13 such amounts as may be necessary to carry out the provi-
14 sions of section 5(k) of this Act.”.

15 TERMINATION DATE

16 SEC. 120. Section 20 of the Export Administration Act
17 of 1969, as redesignated by section 104(a) of this Act, is
18 amended by striking out “1979” and inserting in lieu thereof
19 “1983”.

20 TECHNICAL AMENDMENTS

21 SEC. 121. (a) For purposes of this section, an amend-
22 ment which is expressed in terms of an amendment to a sec-
23 tion or other provision, shall be considered to be a section, as
24 redesignated by section 104(a) of this Act, or other provision
25 of the Export Administration Act of 1969.

1 (b) Section 7 is amended—

2 (1) in the section heading by striking out
3 “AUTHORITY” and inserting in lieu thereof “OTHER
4 CONTROLS”;

5 (2) in subsection (b)—

6 (A) in paragraph (1)—

7 (i) by inserting “(2)(C)” immediately
8 after “section 3” the first time it appears,

9 (ii) by striking out “articles, materials,
10 or supplies, including technical data on any
11 other information,” and inserting in lieu
12 thereof “goods”,

13 (iii) by striking out “articles, materials,
14 or supplies” and inserting in lieu thereof
15 “goods”, and

16 (iv) by striking out “(A)” and inserting
17 in lieu thereof “(C)”; and

18 (B) by striking out paragraph (2) and insert-
19 ing in lieu thereof the following:

20 “(2) Upon imposing quantitative restrictions on exports
21 of any goods to carry out the policy stated in section 3(2)(C)
22 of this Act, the Secretary shall include in a notice published
23 in the Federal Register with respect to such restrictions an
24 invitation to all interested parties to submit written com-
25 ments within fifteen days from the date of publication on the

1 impact of such restrictions and the method of licensing used
2 to implement them.”;

3 (3) in subsection (c)—

4 (A) in paragraph (1)—

5 (i) by striking out “(A)” and inserting in
6 lieu thereof “(C)”,

7 (ii) by striking out “of Commerce”,

8 (iii) by striking out “7(c)” and inserting
9 in lieu thereof “12(c)”, and

10 (iv) by striking out “article, material, or
11 supply” and inserting in lieu thereof
12 “goods”;

13 (B) in paragraph (2) by striking out “each
14 article, material, or supply” and inserting in lieu
15 thereof “any goods”; and

16 (C) by adding at the end thereof the follow-
17 ing new paragraph:

18 “(3) The Secretary shall consult with the Secretary of
19 Energy to determine whether monitoring under this subsec-
20 tion is warranted with respect to exports of facilities, machin-
21 ery, or equipment normally and principally used, or intended
22 to be used, in the production, conversion, or transportation of
23 fuels and energy (except nuclear energy), including but not
24 limited to, drilling rigs, platforms, and equipment; petroleum
25 refineries, natural gas processing, liquefaction, and gasifica-

1 tion plants; facilities for production of synthetic natural gas
2 or synthetic crude oil; oil and gas pipelines, pumping stations,
3 and associated equipment; and vessels for transporting oil,
4 gas, coal, and other fuels.”;

5 (4) in subsection (f)—

6 (A) in paragraph (1) by striking out “(B) or
7 (C)” and inserting in lieu thereof “(A) or (B)”;

8 (B) in paragraph (2)—

9 (i) by striking out “of Commerce” each
10 place it appears, and

11 (ii) by striking out “(A)” and inserting
12 in lieu thereof “(C)”;

13 (C) in paragraph (3) by striking out “clause
14 (A) or (B) of paragraph (2)” and inserting in lieu
15 thereof “paragraph (2)(C)”;

16 (5) in subsection (i) by striking out “(A)” and in-
17 serting in lieu thereof “(C)”;

18 (6) in subsection (j)—

19 (A) by striking out “(A)” and inserting in
20 lieu thereof “(C)”;

21 (B) by striking out “of Commerce” each
22 place it appears; and

23 (7) by striking out subsections (a), (d), (e), (g), (h),
24 and (k), and redesignating subsections (b), (c), (f), (i),
25 (j), (l), subsection (m), as added by section 6(d)(2) of the

1 International Security Assistance Act of 1978, and
2 subsection (n), as added by section 109 of this Act, as
3 subsections (a), (b), (c), (d), (e), (f), (g), and (h), respec-
4 tively.

5 (c) Section 8 is amended—

6 (1) in paragraphs (1)(D) and (5) of subsection (a)
7 by striking out “of Commerce”; and

8 (2) in subsection (b)—

9 (A) in paragraph (1) by striking out “4(b)”
10 and inserting in lieu thereof “6(a)”; and

11 (B) in paragraph (2) by striking out “of Com-
12 merce” each place it appears.

13 (d) Section 9 is amended—

14 (1) by striking out “of Commerce” each place it
15 appears; and

16 (2) by striking out “commodity” each place it ap-
17 pears and inserting in lieu thereof “good”.

18 (e) Subsection (c)(2) of section 11 is amended by striking
19 out “4A” each place it appears and inserting in lieu thereof
20 “8”.

21 (f) Section 12 is amended—

22 (1) in subsection (b) by striking out “the Compul-
23 sory Testimony Act of February 11, 1893 (27 Stat.
24 443; 49 U.S.C. 46)” and inserting in lieu thereof “sec-
25 tion 6002 of title 18, United States Code”;

60

1 (2) in subsection (c)—

2 (A) by striking out “4A” and inserting in
3 lieu thereof “8”;

4 (B) by striking out “6” and inserting in lieu
5 thereof “11”; and

6 (C) by striking out “section 4(b)” and insert-
7 ing in lieu thereof “this Act”;

8 (3) in subsection (d)—

9 (A) by striking out “quarterly”; and

10 (B) by striking out “10” and inserting in lieu
11 thereof “14”; and

12 (4) in subsection (e)—

13 (A) by striking out “of Commerce”;

14 (B) by striking out “(c)” and inserting in lieu
15 thereof “(h)”;

16 (C) by striking out “articles, materials, and
17 supplies” and inserting in lieu thereof “goods and
18 technology”; and

19 (D) by striking out the last two sentences
20 and inserting in lieu thereof the following: “The
21 Secretary shall include, in the annual report re-
22 quired by section 14 of this Act, actions taken on
23 the basis of such review to simplify such rules and
24 regulations.”

1 (g) Section 13 is amended by striking out "6" and in-
2 serting in lieu thereof "11".

3 TECHNICAL AMENDMENTS TO OTHER ACTS

4 SEC. 122. (a) Section 38(e) of the Arms Export Control
5 Act (22 U.S.C. 2778(e)) is amended by striking out "sections
6 6 (c), (d), (e), and (f) and 7 (a) and (c) of the Export Adminis-
7 tration Act of 1969" and inserting in lieu thereof "subsec-
8 tions (c), (d), (e), and (f) of section 11 of the Export Adminis-
9 tration Act of 1969, and by subsections (a) and (c) of section
10 12 of such Act".

11 (b)(1) Section 103(c) of the Energy Policy and Conser-
12 vation Act (42 U.S.C. 6212(c)) is amended by striking out
13 "(A)" each place it appears and inserting in lieu thereof
14 "(C)".

15 (2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3))
16 is amended—

17 (A) by striking out "7" and inserting in lieu
18 thereof "12"; and

19 (B) by striking out "(50 App. U.S.C. 2406)".

20 (c) Section 993(c)(2)(D) of the Internal Revenue Code of
21 1954 (26 U.S.C. 993(c)(2)(D)) is amended—

22 (1) by striking out "4(b)" and inserting in lieu
23 thereof "7(a)";

24 (2) by striking out "(50 U.S.C. App. 2403(b))";
25 and

1 (3) by striking out "(A)" and inserting in lieu
2 thereof "(C)".

3 SAVINGS PROVISIONS

4 SEC. 123. (a) All delegations, rules, regulations, orders,
5 determinations, licenses, or other forms of administrative
6 action which have been made, issued, conducted, or allowed
7 to become effective under the Export Control Act of 1949 or
8 the Export Administration Act of 1969 and which are in
9 effect at the time this Act takes effect shall continue in effect
10 according to their terms until modified, superseded, set aside,
11 or revoked under this Act or the amendments made by this
12 Act.

13 (b) This Act and the amendments made by this Act shall
14 not apply to any administrative proceedings commenced or
15 any application for a license made, under the Export Admin-
16 istration Act of 1969, which is pending at the time this Act
17 takes effect.

18 (c) This Act and the amendments made by this Act shall
19 not affect any investigation, suit, action, or other judicial pro-
20 ceeding commenced under the Export Administration Act of
21 1969, or under section 552 of title 5, United States Code,
22 which is pending at the time this Act takes effect; but such
23 investigation, suit, action, or proceeding shall be continued as
24 if this Act had not been enacted.

63

1 EFFECTIVE DATE

2 SEC. 124. (a) Except as provided in subsection (b), this
3 title and the amendments made by this title shall take effect
4 on October 1, 1979.

5 (b) The amendments made by sections 107 and 108 of
6 this Act shall take effect on the date of enactment of this Act.

7 TITLE II—INTERNATIONAL INVESTMENT

8 SURVEY ACT

9 AUTHORIZATION OF APPROPRIATIONS

10 SEC. 201. (a) Section 9 of the International Investment
11 Survey Act of 1976 (90 Stat. 2059) is amended to read as
12 follows:

13 "SEC. 9. To carry out this Act, there are authorized to
14 be appropriated \$4,400,000 for the fiscal year ending Sep-
15 tember 30, 1980, and \$4,500,000 for the fiscal year ending
16 September 30, 1981."

17 (b) The amendment made by subsection (a) shall take
18 effect on October 1, 1979.

Union Calendar No. 122

96TH CONGRESS
1ST Session

H. R. 4034

[Report No. 96-200]

A BILL

To provide for continuation of authority to regulate
exports, and for other purposes.

MAY 10, 1979

Referred to the Committee on Foreign Affairs

MAY 15, 1979

Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed